

c.) Remarks

As of this office action, claims 1-98 are pending. In the office action of July 14, 2006, claims 1-98 were rejected. In this office action, claims 1, 16, 27, 42, 54, 56, 58, 59, 60, 61, 62, 63, 66, and 83 are amended.

Outstanding Rejections

The Examiner has entered or maintained the following rejections:

Rejection of Claims 1-98 Under 35 USC § 102(e)

The examiner has rejected claims 1-98 under 35 USC § 102(e) as being anticipated by U.S. patent 6,771,369 to Rzasa (hereinafter “Rzasa ‘369”). In light of the amendments made herein, applicants assert that the examiner’s rejection has been obviated.

Applicants have amended all independent claims in the pending application to recite the requirement that the analytical data be data from matched analytical instruments and that the analytical instruments used in the corresponding methods be matched analytical instruments. Matched instruments are analytical instruments manufactured to give the same response for a given measurement. In the method claims, the step of collecting data now comprises collecting data from matched instruments. Matching of instruments minimizes or eliminates the occurrence of false negatives and false positives arising from instrumental variations in the network. Support for this limitation appears in the specification at, for example, paragraph [0064]:

[0064] In the case where specific analytical instruments are used at the remote testing locations, it is preferable to employ mass produced instruments with identical responses. Such instruments are now available and are expected to become more common. In this way, consistent, reproducible results can be achieved while minimizing false negatives and false positives. An independent, centrally maintained and managed database results in the efficient storage, retrieval, dissemination, and protection of proprietary information.

Applicants respectfully assert that Rzasa '369 nowhere teaches or suggests this aspect of the present invention. Analytical data libraries are unique to each individual analytical instrument (such as a spectrometer) due to the inherent properties of the specific unit used to collect the data and are not transferable unless a mathematical process is applied. Thus, without the use of matched instruments, a mathematical process must either 1) be applied to data generated by the specific unit in order to accommodate the central library (for example, each time a new unit is introduced into an analytical network), or alternatively, 2) be applied to the central library in order to accommodate the additional specific unit brought on-line. This problem is avoided if the data in the central library is universal to a plurality of analytical instruments that make use of the database. The use of matched instrument data in a central database system for authenticity verification of pharmaceuticals is not taught or suggested by Rzasa '369, nor is it taught or suggested anywhere in the prior art, as far as applicants are aware.

Therefore, Rzasa '369 cannot be a proper reference under 35 USC § 102(e) against the amended claims. Accordingly, applicants respectfully request that the examiner withdraw the outstanding rejection and allow the amended claims.

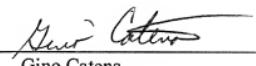
d.) Conclusions

In light of the amendments and arguments submitted herein, Applicants respectfully assert that all outstanding issues have been addressed and that the claims are in condition for allowance. Applicants respectfully request that the outstanding rejection be removed and request allowance of the pending claims.

With this response, Applicants include the fee for a 3-month extension of time and believe that no other fees are due or associated with this filing. However, if Applicants are in error, the Commissioner is hereby authorized to draw any additional fees associated with this filing from Deposit Account No. 06-2375, under Order No. HO-P02739US1/10300332, from which the undersigned is authorized to draw.

Respectfully submitted,

Date: January 12, 2007

By: 
Gino Catena
Reg. No 45,546
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
Tel: (713) 651-5144
Fax: (713) 651-5246